AMENDMENTS TO THE DRAWINGS

One Sheet of Replacement Drawings is attached at the end of this Amendment. In it FIG. 5A is designated as Prior Art.

REMARKS

The Applicant thanks the Examiner for the thorough consideration given the present application. Claims 6 and 7 are cancelled herein without prejudice to or disclaimer of the subject matter set forth therein. Claim 3 was previously cancelled. Claims 1, 2, 4, 5, and 8 are pending. Claims 1, 4, and 8 are amended. Claim 1 is independent. The Examiner is respectfully requested to reconsider the rejections in view of the amendments and remarks set forth herein.

Reasons for Entry of Amendments

At the outset, it is respectfully requested that this Amendment be entered into the Official File in view of the fact that the amendments to the claims automatically place the application in condition for allowance.

In the alternative, if the Examiner does not agree that this application is in condition for allowance, it is respectfully requested that this Amendment be entered for the purpose of appeal. This Amendment reduces the issues on appeal by

- amending claim 1, 4, and 8, to be in compliance with the rejections under 35 U.S.C. § 112, first and second paragraphs, and to merely to add previously examined subject matter that was set forth in claims 6 and 7 in the Reply dated July 17, 2006,
- canceling claim 6 and 7, and
- amending the specification to delete the subject matter that the Examiner has objected-to.

Since, claims 1, 4, and 8 have been amended merely to add features that have been previously examined by the Examiner, the amendments to the claims do NOT add subject matter that would raise new issues requiring a new search the art by the Examiner. A new search of the art is not warranted or required.

This Amendment was not presented at an earlier date in view of the fact that the Examiner has just now presented new grounds for rejection in this Final Office Action.

Objection to the Drawings

In response to the objection, one Sheet of Replacement Drawings is attached at the end of this Amendment. FIG. 5A is now designated as Prior Art.

Objection to the Specification

The Examiner has objected to the specification asserting that the term "non-oriented nylon film" introduced in the disclosed filed on July 17, 2006 constitutes new matter. This objection is respectfully traversed. The Applicants respectfully disagree with the Examiner's position.

In the Amendment filed on July 17, 2006, the Applicants stated that inadvertent errors were made when translating the application for Japanese into English. For example: in paragraph [0018] of the verified English translation of the application filed in the USPTO on May 3, 2004, the terms "inextensible film" and "non-extensible film" were inadvertently used instead of the intended term "non-oriented". The Applicants again state that the term "non-oriented" film is commonly known in the art as being film that has not been stretched or stressed, and as such dose not constitute new matter as the Examiner alleges. Therefore, the Applicants believe this objection is not proper.

Nonetheless, and while not conceding the appropriateness of the Examiner's objection, but merely to advance the prosecution of the present application, the Applicants have amended paragraphs [0010], [0011], [0026], [0031], [0032], [0046], [0047], [0050], [0054], [0063], and [0064] merely to change term "non-oriented" back to 'inextensible (non-extensible)" as stated in the verified English translation filed on May 3, 2004. Withdrawal of the objection is respectfully requested.

Rejection Under 35 U.S.C. § 112, first paragraph

Claims 1, 4, and 8 stand rejected under 35 U.S.C. § 112, first paragraph. This rejection is respectfully traversed.

While not conceding the appropriateness of the Examiner's rejection, each of claims 1, 4, and 8 has been amended to delete the subject matter the Examiner's believes is not adequately described in the specification. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. § 112, second paragraph

Claim 8 stands rejected under 35 U.S.C. § 112, second paragraph. This rejection is respectfully traversed.

In order to overcome this rejection, the Applicants have amended claim 8 to correct each of the deficiency pointed out by the Examiner. The Applicants respectfully submit that the claims, as amended, particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejections Under 35 U.S.C. §103(a)

Claim 1 and 4-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Etesse et al. (EP 0 626 319 A1) in view of Kuge et al. (U.S. 6,478,190); and

claims 1, 2, and 4-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bustin (U.S. 4,353,497) in view of Kuge et al.

These rejections are respectfully traversed.

Amendments to Independent Claim 1

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, independent claim 1 is amended herein to recite a combination of elements directed to a bag for containing an article, including

wherein a laminate sheet of film selected from a group consisting a polypropylene film and a polyethylene film, and a biaxially drawn nylon film are used for the front sheet (11) and the rear sheet (12),

wherein the bottom sheet (13) includes a laminate sheet of a nylon film to which drawing has not been administered, and

wherein the laminate sheet of the bottom sheet (13) is easier to stretch, in comparison to the laminate sheet of the biaxially drawn nylon film used for the front sheet (11) and the rear sheet (12), and the extensibility and tearing resistance of the bottom sheet (13) are higher than the extensibility and tearing resistance of the front sheet (11) and the rear sheet (12).

Support for the novel combination of elements set forth in claim 1 can be seen in the English language specification filed on May 3, 2004 and drawings filed on October 8, 2003. See for example paragraphs [0018] and [0024] to [0029] of the English language specification

filed on May 3, 2004. (These paragraphs correspond to paragraphs [0032] and [0050] to [0062] of the Substitute Specification filed on July 17, 2006.)

Following are arguments describing the patentable difference between independent claim 1 of the present invention and the disclosures in the references cited by the Examiner

1. On Etesse et al. (European Patent Application No. 0 626 319)

The bottom sheet of the pouch of Etesse et al. is merely made of a material that is different and stiffer than the material of the front and rear sheets. The Applicants submit that the word "stiff" means to be firm and difficult to bend or move (*Oxford Advanced Learner's Dictionary*), and thus including a meaning "to be difficult to extend". Meanwhile, the bottom sheet in the invention of the present application, as currently amended, is easy to stretch. This is supported by the measurement results from the experiment described in paragraph [0022] of the English language specification filed May 3, 2004. (Corresponds to paragraph [0041] of the present specification of Publication No. US 2005/0078889). In regard to tensile ductility, the measurement results of the test piece B cut from the bottom sheet 13 were evaluated and about 400% with respect to those of test pieces A cut from the front and rear sheets 11, 12. Therefore, it would not be obvious to one having ordinary skill in the art from the Etesse et al. document to use a bottom sheet that is easy to stretch compared to the front and rear sheets.

2. On Kuge (U.S. 6,478,190)

Kuge discloses one embodiment of the bag in which, for the front and rear sheets, a laminate sheet of either a polypropylene or polyethylene film and a biaxially drawn nylon film is used.

Kuge also discloses another separate embodiment in which, for the bottom sheet, a laminate sheet of a non-oriented nylon film and a low-density polyethylene film is used. However, these embodiments are separately described, and a combination of the front and rear sheets that are comprised of a laminate sheet either of a polypropylene or polyethylene film and a biaxially drawn nylon film, and the bottom sheet that is comprised of a laminate of a non-oriented nylon film and a low-density polyethylene film is not specifically described. Combining random elements from different embodiments of Kuge is not proper.

Further, it does not appear that Kuge discloses a material that is easy to stretch is used for the bottom sheet, as the invention of the present application applies to. Although Kuge discloses a bottom sheet (line 58, column 9), which is folded into a V-shape along the folding line and unfolded so as to expand the central portion of the bag along the folding line in the transverse direction to take an item in the bag, the sheet itself does not appear to stretch. This is different from the bottom sheet disclosed in the present application. Accordingly, there is no suggestion or motivation in the Kuge document to combine the front and rear sheets with the bottom sheet in a manner the inventor of the present invention does.

3. On Independent Claim 1 of the Present Invention

As argued in the previous response, a material sheet that is easy to stretch is applied to the bottom sheet in the present invention. This is different from a conventional bag in the art. The present inventors focused on prevention of tearing of the bag in a critical moment when the bottom sheet is supporting too much weight, and applied the material that would not be normally

used for the bottom sheet. Such an idea would not have been obvious to one having ordinary skill in the art.

4. On the Combination of Etesse et al. and Kuge

The idea commented above is attained only by the inventor of the present application. One having ordinary skill in the art would not derive or be motivated to derive the present invention in which a nature of the bottom sheet that is easy to stretch is positively taken advantage of, from a combination of what is taught by Etesse et al. and what is taught by Kuge, both of which do not indicate to apply an easy-to-stretch material sheet to the bottom sheet of the bag. Even consideration of known materials to be selected for the bottom sheet would not lead to use of a sheet that is easy to stretch.

5. On Examiner's View on Dependent Claim 4

Contrary to the Examiner's view, it will be impossible for the bottom sheet of Etesse et al. to have a tensile ductility, since said sheet appears to be difficult to stretch because of its stiffness as described in comment *No. 1* above. Further, even though the bottom sheet comprised of a laminate sheet of a inextensible nylon film and a polyethylene film is disclosed, there is no reference of a tensile ductility in Kuge. Therefore, in the case the bottom sheet of the Etesse et al. pouch is provided with a laminate sheet of a non-oriented nylon film and a low-density polyethylene film, it will not inherently meet the recitation of the bottom sheet having a tensile ductility

6. On Stretching of the Bottom Sheet of Etesse et al.

As described above, since the bottom sheet of the Etesse et al. pouch is understood to be inherently difficult to stretch, the sheet will not stretch naturally when the bottom sheet receives certain weight. Rather, the bottom sheet will probably be torn like one shown in FIG. 5(A), as argued in the previous response, thus losing its function as a bag. This is a crucial deficit and patentable distinction. Contrary to Etesse et al., since the bottom sheet of the bag disclosed by the present invention is easy to stretch, it will not be torn readily. Even when the bottom sheet receives the weight, the bag retains its function as a bag. This characteristic is not described in the specification of either Etessle et al. or Kuge.

7. On Bustin (U.S. 4,353,497)

Regarding 11 of the outstanding Office Action, our comments on Bustin is the same as ones on Etesse et al. As argued in the previous Office Action, Bustin merely discloses central gusset 14 and bottom rim 15, 15a. Ther is no disclosure that either of these is extensible (i.e., capable of being stretched), as presently claimed.

At least for the reasons explained above, the Applicants respectfully submit that the combination of elements as set forth in independent claim 1 is not disclosed or made obvious by the prior art of record, including Etesse et al, Kuge and Bustin.

Therefore, independent claim 1 is in condition for allowance.

The Examiner will note that dependent claims 4 and 8 have been amended, and dependent claims 6 and 7 have been cancelled.

All dependent claims are in condition for allowance due to their dependency from allowable independent claims, or due to the additional novel features set forth therein.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) are respectfully requested.

CONCLUSION

Since the remaining patents cited by the Examiner have not been utilized to reject claims, but merely to show the state of the art, no comment need be made with respect thereto.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 208-4030(direct line).

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,
BIRCH, STEWART, KOLASCH & BIRCH, LLP

By_____
James M. Slattery
Reg. No. 28,380

P. O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

JMS:CTT:ktp

Attachment: One Sheet of Replacement Drawings